

1
2 FEB 22 PM 12:09

BEFORE THE FEDERAL ELECTION COMMISSION

3 In the Matter of)
4 **CELA**)
5 MUR 6245) CASE CLOSURE UNDER THE
6 VOLUNTEER POLITICAL ACTION) ENFORCEMENT PRIORITY
7 COMMITTEE AND DAWN PERKERSON,) SYSTEM
8 AS TREASURER)
9 GEORGE T. FARRELL)
10 HONORABLE WILLIAM H. FRIST)
11)

12 **GENERAL COUNSEL'S REPORT**

13 Under the Enforcement Priority System, matters that are low-rated

14 : are forwarded to

15 the Commission with a recommendation for dismissal. The Commission has determined that
16 pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket,
17 warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General
18 Counsel scored MUR 6245 as a low-rated matter.

19 In this matter, the complainant, Vestrice A. Farrell, states that while "Googling" herself in
20 November 2009, she discovered that a \$5,000 contribution had been made in her name on October
21 24, 2005¹ to the Volunteer Political Action Committee and Dawn Perkerson, in her official capacity
22 as treasurer ("VOL PAC" or "the Committee"), a multicandidate political action committee
23 established by then-Senator William H. Frist, M.D. The complainant asserts that she has never made
24 a contribution to VOL PAC and did not sign the contribution check, which was allegedly drawn on
25 an account that she had held jointly with her estranged husband, George T. Farrell.² Therefore, the
26

¹ Although the complaint states the contribution was made in 2004, the Committee's disclosure reports and subsequent contacts with the complainant confirm that the correct year is "2005."

² According to the complaint, Mr. Farrell, from whom she is separated, now lives somewhere in Costa Rica.

10044264338

1 complainant maintains that the contribution was illegal and should be refunded to her by VOL PAC.³

2 In addition, the complainant states that she contacted Dr. Frist at www.billfrist.com to obtain
3 a refund. She states that she was informed by an individual identified as "Ellen H. Williams,
4 Personal Assistant to Senator William H. Frist, M.D.," that Ms. Williams had discussed the refund
5 request with Dr. Frist, but that VOL PAC was unable to refund the contribution because it had
6 terminated and had no funds.

7 In response, former Senator Frist requests that the FEC close this matter for the following
8 reasons: the refund request was not received until November 2009, whereas VOL PAC has been
9 terminated since August 2009 and has no funds; pursuant to FEC requirements, VOL PAC only
10 retained its records for three years⁴ and, therefore, does not have the records relating to Ms. Farrell's
11 purported contribution in October 2005; and had there been any indication of illegality when the
12 contribution was made, VOLPAC would not have accepted it "under any circumstances."⁵

13 According to Commission records, VOL PAC filed a report on July 31, 2009, which disclosed
14 that it had no funds and requested permission to terminate. On August 5, 2009, several months
15 before the complaint was filed, the Committee was allowed to terminate.

16 It is unlikely that the use of compulsory process will be able to compel respondent
17 George Farrell, who did not reply to the complaint, and who apparently resides abroad, to
18 answer the allegations set forth in the complaint. Furthermore, respondent VOL PAC has

³ In a subsequent conversation with this Office the complainant surmised that the following scenario may have occurred: Mr. Farrell attended a VOL PAC fundraiser in October 2005 and attempted to make a \$10,000 contribution; he was told that he could not legally contribute more than \$5,000 to VOL PAC per calendar year, pursuant to 2 U.S.C. § 441a(a)(1)(C); Mr. Farrell wrote two \$5,000 checks instead, one of which was drawn on an account solely owned by him, and the other of which was drawn on the couple's joint account, to which he allegedly signed his wife's name without her knowledge or consent.

⁴ Presumably, Dr. Frist is referring to 2 U.S.C. § 432(d) and 11 CFR §§ 102.9(c) and 104.14(b)(3), which require political committees to preserve records pertaining to their financial disclosure reports for three years after each report is filed.

⁵ Respondent Dawn Perkinson, who had been VOL PAC's treasurer, contacted this Office by telephone on January 27, 2010, and essentially reiterated the points raised by Dr. Frist. However, although she indicated that she would file a response by facsimile, to date she has not done so.

10044264339

1 properly terminated and reportedly has no funds. Accordingly, in light of the time that has passed
2 since the contribution at issue, the fact that one of the respondents is living abroad, and another
3 respondent has terminated with the Commission, and in furtherance of the Commission's priorities
4 and resources relative to other matters pending on the Enforcement docket, the Office of General
5 Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the
6 matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


7 **RECOMMENDATIONS**

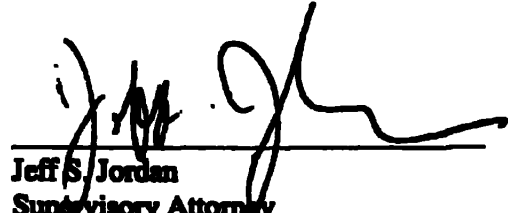
8 The Office of General Counsel recommends that the Commission dismiss MUR 6245, close
9 the file, and approve the appropriate letters.

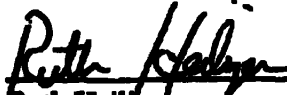
10 Thomasenia P. Duncan
11 General Counsel

12
13
14 2/20/10
15 Date

16 BY:

17 
18 Gregory R. Baker
19 Special Counsel
20 Complaints Examination
21 & Legal Administration

22 
23 Jeff S. Jordan
24 Supervisory Attorney
25 Complaints Examination
26 & Legal Administration
27
28
29



Ruth Heilizer

Attorney

Complaints Examination
& Legal Administration

1
2
3
4
5
6
7
8
9
10
11

10044264341